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cc: Paul

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DANIEL A. JENSEN

June 20, 2006

Mr. Paul Baker
UTAH DIVISION OF OIL, GAS AND MINING
1594 West North Temple, Suite 1210
Salt Lake City, Utah 84116

Re: Mine Reclamation Liability

Dear Mr. Baker:

I'm writing on behalf of my client, Earth Energy Resources, Inc. ("EER"). As you know, EER is the lessee or sublessee of a large area of state-owned land containing tar sands near PR Spring in Uintah and Grand Counties. I believe that you and Page van Loben Sels of EER had a conversation on the subject of reclamation liability in situations where permitted mine disturbances are made by a sublessee (rather than the lessee), and in particular whether, upon a sublessee's failure to properly perform required reclamation, DOGM would seek to hold the lessee responsible in addition to or instead of the sublessee.

The mining disturbances, of course, would be done pursuant to a large or small mine permit and a related reclamation bond in an amount approved by DOGM. If the sublessee failed to properly carry out its reclamation obligations, the bond would be available to cover the expense of having that work done by a private contractor and the problem would be resolved, provided the bond was large enough to cover all of the expense. The issue is who would be responsible for the deficiency and for completing the balance of the reclamation if the bond amount were insufficient.

I understand that in your conversation with Page you indicated that, as long as the lessee had no involvement in making the disturbances, DOGM would look only to the sublessee (and its bond) for reclamation and would not hold the lessee responsible if the sublessee were to fail to complete mandatory reclamation, even in those situations where the sublessee's bond turned out to be insufficient to cover the actual cost of reclamation.

If my understanding is correct, I agree with your conclusion. It is certainly fair and logical for DOGM to look only to the operator who actually made the surface disturbances for reclamation liability, and not to parties who had no involvement in making the disturbances. The lessee would not be an "operator" under the permit and should not have any reclamation liability, even though it is the record lessee of the state lands being mined.

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As the rules don't appear to expressly address this, it would be very helpful to have confirmation of this from your office. EER is attempting to acquire some additional tar sands acreage through subleases of state-owned land. The prospective lessees do not want to have any reclamation liability exposure from allowing a sublease, when they never had any involvement in EER's operations on the land.

For the reasons mentioned above, I believe the lessees would have no reclamation liability if this series of events were to occur. I am writing to ask if you would please confirm this in a letter that EER can show to prospective lessees for purposes of providing them comfort on this issue.

Thank you very much for your assistance.

Respectfully yours,

Daniel A. Jensen

cc: Page van Loben Sels